

Case No. 8588.12RE

**THE COMMISSIONER OF PATENTS
AND TRADEMARKS**

Mail Stop Reissue

Alexandria, VA 22313-1450

Transmitted herewith for filing in the patent application of:

Inventors: William A. Elmer
For: Vehicle advertising Sign, System and Method
Serial No.: 10/098,648
Filed: March 15, 2002

Enclosed are:

- ☒ Response to Office Communication of March 9, 2004
- ☒ Attachments A-C

- ☒ The Commissioner is authorized to charge or credit any discrepancies in fee amounts to Deposit Account No. 01-0484.

April 2, 2004

Date

Herbert L. Allen

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REISSUE LITIGATION

PTO/SB/51 (06-03)

Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)

Docket Number (Optional)

8588.12RE

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant. As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith.

Name(s) Registration Number

Herbert L. Allen 25,322

Correspondence Address: Direct all communications about the application to:

☐ Customer Number:

OR

<input checked="" type="checkbox"/> Firm or <input checked="" type="checkbox"/> Individual Name	Herbert L. Allen			
Address	Allen, Dyer, Doppelt, Milbrath & Gilchrist P.A.			
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Country	U.S.			
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Full name of sole or first inventor (given name, family name) William A. Elmer

Inventor's signature *William A. Elmer*

Date 7/9/03

Residence Winter Park, FL

Citizenship U.S.

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Full name of second joint inventor (given name, family name)

Inventor's signature

Date

Residence

Citizenship

Mailing Address

Full name of third joint inventor (given name, family name)

Inventor's signature

Date

Residence

Citizenship

Mailing Address

☐ Additional joint inventors or legal representative(s) are named on separately numbered sheets forms PTO/SB/02A or 02LR attached hereto.

REISSUE LITIGATION

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REISSUE APPLICATION DECLARATION BY THE INVENTOR

Docket Number (Optional)

8588.12RE

I hereby declare that:

Each inventor's residence, mailing address and citizenship are stated below next to their name.

I believe the inventors named below to be the original and first inventor(s) of the subject matter which is described and claimed in patent number 5,711,100, granted 1/27/98 and for which a reissue patent is sought on the invention entitled Vehicle Advertising Sign, System and Method.

the specification of which

☐ is attached hereto.

☒ was filed on 3/15/02 as reissue application number 10/098,648 and was amended on _____ (If applicable)

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

☐ I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b). Attached is form PTO/SB/2B (or equivalent) listing the foreign applications.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☒ by reason of a defective specification or drawing.

☐ by reason of the patentee claiming more or less than he had the right to claim in the patent.

☒ by reason of other errors.

At least one error upon which reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:

See Attached "Basis for Reissue".

[Page 1 of 2]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

BASIS FOR REISSUE

1. To add language in the paragraph at column 3, lines 10-18, to refer to the housing **134** as "dish-shaped".
2. To correct at column 4, line 39, the use of reference number **134** for an element not previously designated by that number, by changing the reference numeral to --137--.
3. To correct the drawing in Figure 1A with respect to the beveled end **132** of the fastener **128**, and the omission of reference numeral **114**.
4. To correct in Claim 4 the "non-metallic" language with respect to the housing **134**.
5. To correct the spelling of "sign" in Claim 5.
6. To submit additional prior art for consideration by the Examiner.
7. To permit the Examiner to consider the allegations that the "Autoangle sign" is prior art.
8. To add additional dependent claims, e.g. new Claims 7-25, because the original patent claims less than Applicant had a right to claim.

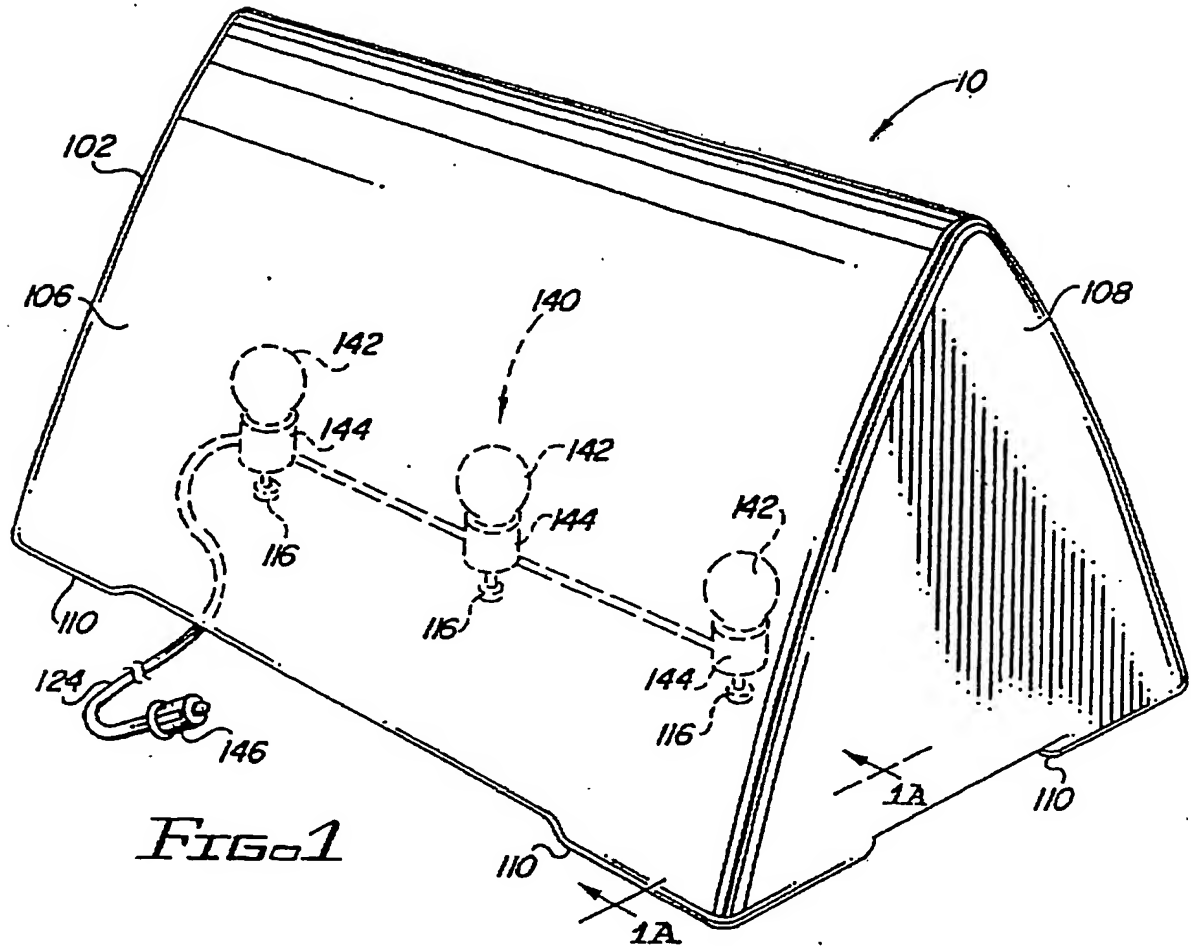


FIG. 1

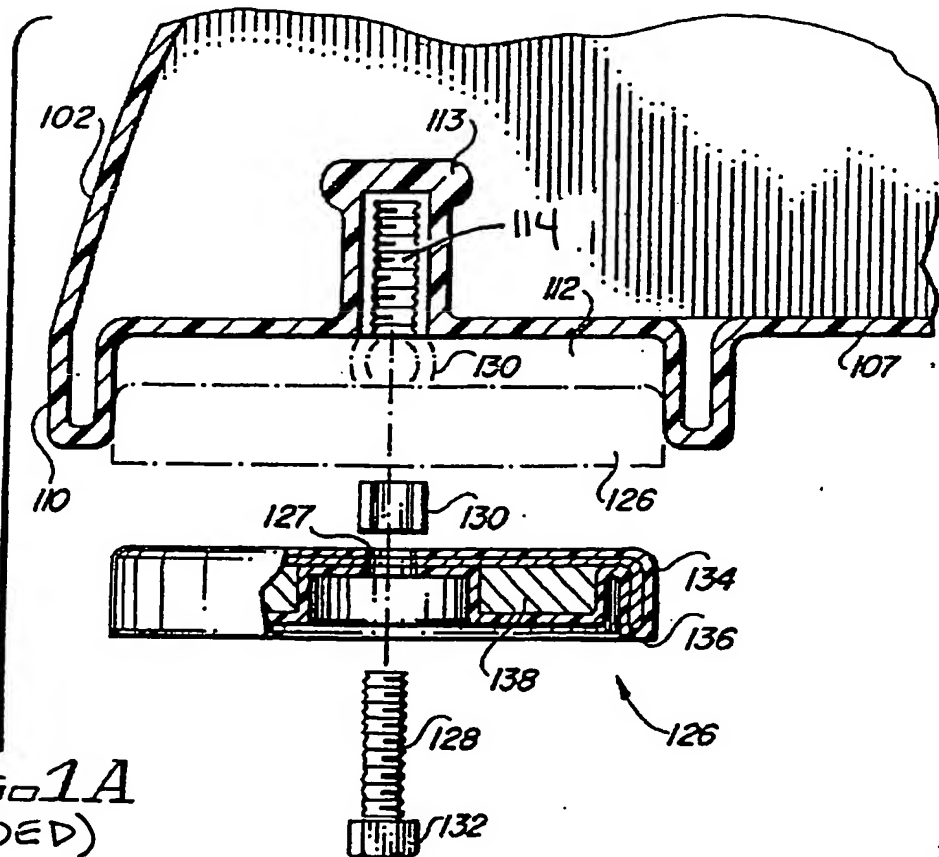


FIG. 1A
(AMENDED)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Patent Application
for **Patent No. 5,711,100**

WILLIAM A. ELMER

Serial No. **10/098,648**

Filing Date: **March 15, 2002**

For: **VEHICLE ADVERTISING SIGN,
SYSTEM AND METHOD**

Mr. Brian Green
Examiner
Art Unit 3611

Mail Stop Reissue
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Sir:

SUPPLEMENTAL AFFIDAVIT OF SHARON W. ELMER
UNDER 37 C.F.R. § 1.132

State of Florida :
:
County of Orange :

Sharon W. Elmer, having first appeared before the undersigned officer who is
duly authorized to administer oaths in the State of Florida, did depose and say:

1. I am the same Sharon W. Elmer that earlier made an affidavit under 37
C.F.R. §1.132 in the above-identified patent application on July 8, 2003. This affidavit
is submitted to supplement the earlier affidavit with respect to the following three
matters for which Examiner Green expressed concern in the October 24, 2003 Office
Action:

ATTACHMENT C

- a. whether the commercial success was related to the inventions defined in Claims 2 and 3;
- b. whether the commercial success was due to increases in advertising; and
- c. whether the commercial success was due to reductions in the sales price of the HTH signs.

A. The Sign Design Enjoying Commercial Success Employs the Construction Features of Claims 2, 3 and 13-17

2. In my earlier affidavit at ¶¶7 and 8, I pointed out that I had learned from my contacts with HTH customers that the commercial success of HTH signs was due to the distinctive combination of features recited in both the original and added claims presently in the reissue application. While in ¶8 I referenced specific features, I did not intend to limit those features.

3. In fact, the commercial success enjoyed by the HTH signs is also based upon the combination of features recited in Claims 2, 3 and 13-17. Specifically, the design employed in all of the signs which were the subject of the sales referenced in my earlier affidavit employ an advertising member having a base, ends and sides formed together into a completely enclosed hollow body, with plural magnets and means such as a fastener and an associated flexible sleeve attaching each magnet to the base so that each magnet can pivot and adjust to differences in slope along the vehicle metal panel to which the sign is attached (Claims 2 and 3). Further, the recessing of the magnets using portions of the sides of the sign contribute significantly

to the stability of the signs in use, a factor which has contributed to commercial success (Claims 13-16). The use of a coating extending along the bottom of each magnet is a feature which provides a particular commercial benefit, in that it avoids scratching of the roof surface (Claim 17).

B. HTH Has Not Increased Its Advertising Expenditures

4. As I pointed out in my earlier affidavit at ¶6, HTH realized the significant increase in sales levels from 1994-2002 relative to the sales in 1993, without significant increase in HTH's advertising expenses during that time. In fact, taking into account the annual cost of living increase and/or inflation figure for each year from 1994 through 2002 and occasional catalog reprinting costs, the increase in advertising expenses for each year in comparison to the advertising expenses in 1993 as a percentage are at least an order of magnitude less than the increase in sales (relative to 1993) for each year.

5. Thus, the commercial success enjoyed by HTH for the sign design described in Claims 1-25 of the pending application very definitely was not affected by increases in advertising expenditures.

C. HTH Did Not Reduce the Sales Price of the Signs Covered by Claims 1-25

6. As I pointed out in my earlier affidavit at ¶6, the signs covered by Claims 1-25 of this application are substantially more expensive than HTH's best-selling advertising signs prior to 1993.

7. The commercial success enjoyed by HTH for the sign design covered by Claims 1-25 of the application most definitely is not related to any reduction in the sales price of these signs. In fact, HTH has never reduced the sales price; the sales price has only been increased as was necessary to take into account cost of living and/or inflation factors.

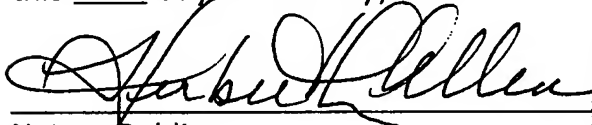
8. Thus, the commercial success of the HTH sign design according to Claims 1-25 in this application is not at all related to any reductions in prices.

FURTHER AFFIANT SAYETH NAUGHT.



Sharon W. Elmer

Subscribed and sworn to before me
this 21st day of January, 2004.



Notary Public

My commission expires:

Personally known to me ✓

Produced identification of:

